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son's contention that it does not so apply would amount to denying the doctrine any proper place in the law.

On the other hand, the doctrine becomes perfectly rational if it be taken to apply to declarations used testimonially. The hearsay rule would forbid their use in this manner, but they are admitted because the circumstances render them more trustworthy than ordinary hearsay. The declarations must, however, be so close in time to the act as to be really a part of the transaction, *i. e.* they must have been made spontaneously, under the influence of the situation.

On this view, also, the variety of opinion, the existence of which Mr. Phipson points out, as to the admissibility as *res gestae* of utterances by other parties than the actors becomes explicable. Whether or not the force of a particular situation lends sufficient sanction to the words of those not directly concerned in it, is eminently a question for difference of opinion. But there could be no reason whatever for excluding such declarations, if they were to be used only circumstantially. The case supposed above will again serve as an illustration. It thus appears that not only is the doctrine of *res gestae* as laid down by the cases perfectly intelligible when applied to the use of declarations testimonially, but it would seem quite inapplicable to their use in any other way.

RIGHT TO COMPETE. — Mr. D. R. Chalmers-Hunt has added a valuable contribution to the discussion of the rights and liabilities of those engaged in business or labor competition. *Trade Unionism and Legislative Reform*, 11 J. of the Soc. of Comp. Legislation, N. S. (London) 161. The views of the author, very briefly stated, are as follows:

All liability in the law rests ultimately on principles of policy. In the discussion of questions of competition the difficulty arises out of the conflict of two great matters of policy. On the one hand, the State must preserve individual interests as far as possible, while, on the other, it must encourage business enterprise and competition. The problem is to strike a balance at the point most advantageous to the general welfare. The formula for determining this exact point, briefly stated, is, "The Nearer the Gain, the Better the Right." In other words, the legality of aggressive conduct must be determined by estimating its relation to an expected gain, not in the ratio of their respective quantities or amounts, but in the ratio of cause to effect. To gain sixpence in the course of business, A may inflict, if necessary to gain it, a loss of a million pounds upon B. But A may not inflict upon B a loss of sixpence merely in the hopes of gaining a million pounds. A must show, upon a reasonable hypothesis, an actual appreciable profit. In cases of great doubt, the proportion of damage to gain might be a convenient method of cutting the knot, but would not be an accurate application of this theory. In determining the proximity of the gain, the effect of the action in question must be calculated "objectively," the intention, purpose, or motive underlying the effort being unimportant. A practical application of this theory leads to certain general conclusions. (1) Competition is limited in time. The motive for toleration of any aggression ceases together with the cessation of the specific opposition in the market. (2) Competition must not extend beyond the limits of the actual market. (3) Vicarious attacks will not be allowed. An unauthorized person cannot commit acts of aggression on behalf of other persons, as, for instance, by a sympathetic strike. (4) The mere fact that it is necessary to strike at third persons to effectuate a competitive effort, does not make the aggression unlawful.

After developing his theory Mr. Chalmers-Hunt occupies some eighteen pages in analyzing the leading cases and in applying his principles to special facts. The writer also discusses such questions as "Picketing," "Fiduciary Relation," "Combination," and "Nuisance." Mr. Chalmers-Hunt is a recognized authority in this field, and is the author of a well-known work on "Trade Unions." To any investigator into the confused domain of the law of competition, the present article will prove invaluable.